

AG Contract No. KR95 0199TRN
ADOT ECS File: JPA 95-12
Project: HX031 01C
Section: SR-19B @ Los Reales
Tucson Contract No. 0356-95

INTERGOVERNMENTAL AGREEMENT

BETWEEN

THE STATE OF ARIZONA

AND

THE TOHONO O'ODHAM NATION

AND

THE CITY OF TUCSON

THIS AGREEMENT is entered into 3 July, 1995, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the TOHONO O'ODHAM NATION, acting by and through its LEGISLATIVE COUNCIL (the "Nation"), and the CITY OF TUCSON, acting by and through its MAYOR and CITY COUNCIL (the "City").

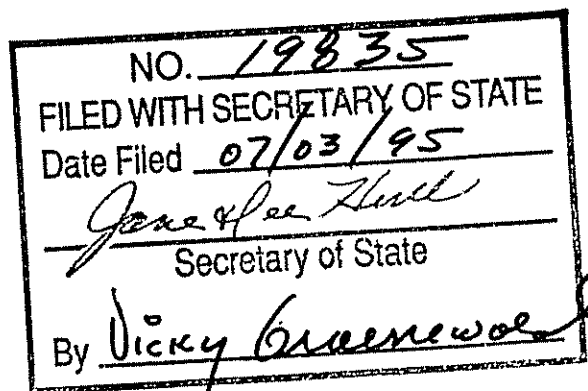
I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-108 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The Nation is empowered by Legislative Council Resolution 95-197, a copy of which is attached hereto and made a part hereof, and has resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the Nation.

3. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the City.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:



4. The State, the Nation and the City desire to participate in the design and construction of improvements to State Route B-19 at Los Reales Road, to include roadway improvements and the installation of traffic signals, at an estimated cost of \$250,000.00, hereinafter referred to as the Project, for the safety and benefit of the motoring public.

II. SCOPE OF WORK

1. The Nation will:

a. Provide to State standards design plans, specifications and such other documents and services necessary for construction bidding and construction. Incorporate State and City review comments.

b. Be responsible for and reimburse the City all costs associated with the Project in excess of \$95,000.00 (the State's \$35,000.00 share and the City's \$60,000.00 share). Be responsible for any contractor claims for extra compensation attributable to the Nation.

2. The City will:

a. Review the design documents and provide comments.

b. Call for bids, and with the concurrence of the Nation and the State, award one or more construction contracts for the Project. Administer same and make all payments to the contractor(s). Confer with the Nation and the State on any Project contract modifications. Be responsible for any contractor claims for extra compensation attributable to the City.

c. Be responsible for Project costs in the amount of \$60,000.00 consisting of services and/or funding. Invoice the State for it's \$35,000.00 share. Invoice the Nation for Project costs over \$95,000.00.

d. Upon completion, approve and accept the Project on behalf of the parties hereto as complete, and provide electrical energy to operate the signal, and provide maintenance.

3. The State will:

a. Review the design documents and provide comments.

b. Within thirty days after receipt and approval of an invoice, pay the City \$35,000.00 for the State's share of the Project.

c. Be responsible for any contractor claims for extra compensation attributable to the State.

III. MISCELLANEOUS PROVISIONS

1. This agreement shall remain in force and effect until completion of said Project and payments; provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, may be cancelled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other parties.

2. This agreement shall become effective upon filing with the Secretary of State.

3. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

5. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

6. All notices or demands upon any party to this agreement relating to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Mail Drop 616E
Phoenix, AZ 85007

Tohono O'Odham Nation
Chairman
PO Box 837
Sells, AZ 85634

City of Tucson
City Manager
PO Box 27210
Tucson, AZ 85726-7210

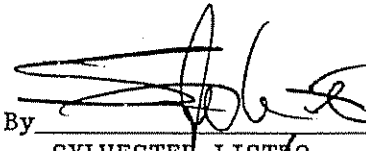
7. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF TUCSON

TOHONO O'ODHAM NATION

By 
GEORGE MILLER
Mayor

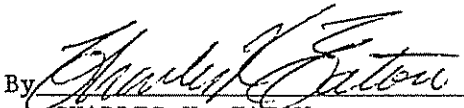
By 
SYLVESTER LISTRO
Chairman

ATTEST

STATE OF ARIZONA

Department of Transportation

By 
KATHY S. DETRICK
City Clerk

By 
CHARLES K. EATON
State Traffic Engineer

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL

**(Approving an Intergovernmental Agreement for the installation of
traffic signals near Desert Diamond Casino)**

RESOLUTION NO. 95-197

**WHEREAS, the Tohono O'odham Gaming Authority proposes that traffic signals
be installed at the corner of Los Reales Road and Old Nogales
Highway near the Desert Diamond Casino to improve traffic safety
and convenience in and around the Casino property; and**

**WHEREAS, the Gaming Authority has presented a proposed Intergovernmental
Agreement with the State of Arizona and the City of Tucson for the
design, construction and maintenance of traffic signals and related
road improvements (the "IGA"), a copy of which is attached hereto
and incorporated herein by reference; and**

**WHEREAS, pursuant to the IGA, the Nation would be required to provide the
design plans and specifications for the bidding and construction and
to reimburse the City of Tucson all costs associated with the project
in excess of \$95,000; and**

**WHEREAS, the Gaming Authority is prepared to undertake all obligations and
duties of the Nation under the IGA and indemnify, defend and hold
the Nation harmless for any and all liability arising out of the**

RESOLUTION NO. 95-197

**(Approving an Intergovernmental Agreement for the installation
of traffic signals near Desert Diamond Casino)**

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Nation's entering into the IGA; and

WHEREAS, it is in the Nation's interest to promote and protect the safety and
welfare of its members, employees and patrons.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Legislative Council approves the Intergovernmental Agreement in the form attached hereto.
2. The Gaming Authority shall assume all responsibility for the rights, duties and obligations of the Nation under the IGA, and the Gaming Authority shall indemnify, defend and hold harmless the Nation for any and all liability arising out of the Nation's entering into the IGA.
3. The Nation's Chairman is authorized and directed to execute the IGA, provided that the Gaming Authority Board has approved and executed an agreement for the assumption of obligations and duties and indemnification of the Nation consistent with the requirements of this Resolution.


RESOLUTION NO. 95-197

(Approving an Intergovernmental Agreement for the installation
of traffic signals near Desert Diamond Casino)

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The foregoing Resolution was passed by the Tohono O'Odham Legislative Council the 2ND day of May, 1995 at a meeting at which a quorum was present with a vote of 1,763.0 FOR; -0- AGAINST; -0- NOT VOTING; and 05 ABSENT, pursuant to the powers vested in the Council by Section 1(c), (f) and (i) of Article VI of the Constitution of the Tohono O'Odham Nation, adopted by the Tohono O'Odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

TOHONO O'ODHAM LEGISLATIVE COUNCIL


Alex J. Ramon, Legislative Chairman

05 day of May, 1995

ATTEST:


Frances Antone, Legislative Secretary

8th day of May, 1995

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'Odham Nation on the 8th day of May, 1995 at 3:37 o'clock, P.M, pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon his approval or upon his failure to either approve or disapprove it within 48 hours of submittal.

TOHONO O'ODHAM LEGISLATIVE COUNCIL


Alex J. Ramon, Legislative Chairman

RESOLUTION NO. 95-197

(Approving an Intergovernmental Agreement for the installation
of traffic signals near Desert Diamond Casino)

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☒ APPROVED

on the 8 day of May, 1995

☐ DISAPPROVED

at 4:17 o'clock, P.M.


SYLVESTER LISTO, Chairman
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 9th day of

May, 1995, at 8:31 o'clock, A.M.


Frances Antone, Legislative Secretary

APPROVAL OF
THE TOHONO O'ODHAM NATION ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, and the TOHONO O'ODHAM NATION and declare this agreement to be in proper form and within the powers and authority granted to the Nation under the laws of the Nation.

DATED this 25th day of May, 1995.

Deal P. Hank

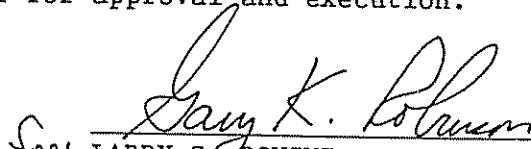
Tribal Attorney

JPA 95-12

RESOLUTION

BE IT RESOLVED on this 20th day of January 1995, that I, the undersigned LARRY S. BONINE, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, to enter into an agreement with the City of Tucson and the Tohono O'Odham Nation for the purpose of defining responsibilities for the design, construction and maintenance of a traffic signal on SR-19B @ Los Reales Road.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the State Traffic Engineer for approval and execution.


for: LARRY S. BONINE
Director

ADOPTED BY THE
MAYOR AND COUNCIL
MAR 20 1995

RESOLUTION NO. 16853

RELATING TO INTERGOVERNMENTAL AGREEMENTS; APPROVING AND AUTHORIZING EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA AND THE TOHONO O'ODHAM NATION TO REBUILD THE INTERSECTION AT NOGALES HIGHWAY AND LOS REALES ROAD, INCLUDING A TRAFFIC SIGNAL AND LUMINAIRES - PROJECT HX031-01C.

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF TUCSON, ARIZONA, AS FOLLOWS:

SECTION 1. The Intergovernmental Agreement with the State of Arizona Department of Transportation and the Tohono O'Odham Nation to rebuild the intersection at Nogales Highway and Los Reales Road, including a traffic signal and luminaires, Project HX031-01C, is approved.

SECTION 2. The Mayor is hereby authorized and directed to execute the said Intergovernmental Agreement for and on behalf of the City of Tucson and the City Clerk is directed to attest the same.

SECTION 3. The various City officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this resolution.

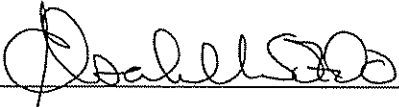
SECTION 4. WHEREAS, it is necessary for the preservation of the peace, health and safety of the City of Tucson that this resolution become immediately effective, an emergency is hereby declared to exist and this resolution shall be effective immediately upon its passage and adoption.

JPA 95-12

APPROVAL OF THE TUCSON CITY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION and the CITY OF TUCSON and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

DATED this 2nd day of March, 1995.



City Attorney

ASSIGNMENT OF INTERGOVERNMENTAL AGREEMENT

This Assignment is made this 20th day of May, 1995, between the TOHONO O'ODHAM NATION, a federally recognized Indian Tribe ("Nation"), and TOHONO O'ODHAM GAMING AUTHORITY, an enterprise chartered by the nation ("TOGA").

RECITALS

- A. The Nation has entered or will enter into an intergovernmental Agreement with the State of Arizona and the City of Tucson for the design and construction of traffic signals and other roadway improvements at the intersection of State Route B-19 and Los Reales Road (the "Agreement"); and
- B. On April 29, 1995, TOGA adopted a Resolution by which TOGA agreed to assume the Nation's obligations under the Agreement and to indemnify the Nation for any liability arising out of the Nation's execution of the Agreement; and
- C. The nation now desires to assign its interest in that Agreement to TOGA.


WITNESSETH:

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the nation and TOGA agree as follows:

- 1. The Nation hereby assigns, transfers and conveys to TOGA all of the Nation's right, title, interest and responsibilities in the Agreement.
- 2. TOGA hereby accepts this assignment and agrees to be bound by each and all of the covenants and conditions of the Agreement.
- 3. TOGA shall indemnify, defend and hold harmless the Nation, its officers, directors, employees, agents, attorneys, contractors, subcontractors, successors, insurers, and assigns, from and against all claims, demands, losses or causes of action which have been or may be asserted by any person as a result of execution and implementation of the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Assignment as of the date and year first written above.

TOHONO O'ODHAM NATION


By: _____
Chairman

STATE OF ARIZONA)
) ss.
County of Pima)

SUBSCRIBED AND SWORN TO before me this 26 day of May, 1995.

Ethel Ramon
Notary Public

My Commission Expires:

MY COMMISSION EXPIRES 04-03-99

Approved as to form:

TOHONO O'ODHAM NATION
ATTORNEY GENERAL

By: Dee Pratt

Date: May 25, 1995

TOHONO O'ODHAM GAMING AUTHORITY

By: Alberta Flannery
Alberta Flannery, Chairperson

STATE OF ARIZONA)
) ss.
County of Pima)

SUBSCRIBED AND SWORN TO before me this 23 day of may, 1995.

Roseanna Marie House
Notary Public

My Commission Expires:

My Commission Expires February 10, 1998



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX 85007-2926

GRANT WOODS
ATTORNEY GENERAL

MAIN PHONE : 542-5025
TELECOPIER : 542-4085

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A. G. Contract No. KR95-0199-TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. §11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 27th day of June, 1995.

GRANT WOODS
Attorney General

A handwritten signature in dark ink, appearing to read "James R. Redpath", written over a horizontal line.

JAMES R. REDPATH
Assistant Attorney General
Transportation Section

JRR:lsr
8828G/71